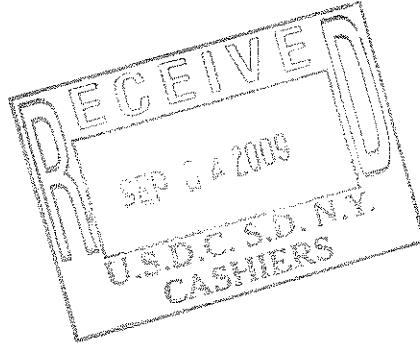


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Attorneys for Plaintiff
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File No. 12/3766



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MTS LOGISTICS INC.,

JUDGE COTE

09 CV 7718
09-cv- 7718 (DLC)

Plaintiff,

-against-

PACIFIC FLOORING AND STONE INC.

COMPLAINT

Defendant.

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PLEASE TAKE NOTICE that Plaintiff, MTS LOGISTICS INC. ("MTS"), by their attorneys, MAHONEY & KEANE, LLP, as and for a Complaint against Defendant, PACIFIC FLOORING AND STONE INC. ("PACIFIC"), allege, upon information and belief, as follows:

1. This is a case of admiralty and maritime jurisdiction within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure. Jurisdiction is based upon 28 U.S.C. § 1333, as well as the Court's pendent, supplementary and ancillary jurisdiction.

2. Plaintiff MTS is a legal entity duly organized and existing pursuant to the laws of the United States, with a place of business at 5 West 37th Street, Suite #300, New York, NY 10018.

3. Defendant PACIFIC is a business entity organized and existing pursuant to the laws of the United States with offices and a place of business at 600 50th Avenue, Oakland, CA 94601

4. The United States District Court for the Southern District of New York is the proper venue for this action, as Plaintiff maintains a principal place of business within the Southern District of New York.

5. Plaintiff sues on its own behalf and as agent and trustee on behalf of any other party who may now have or hereinafter acquire an interest in this action.

AS AND FOR A FIRST CAUSE OF ACTION

6. Plaintiff repeats and reiterates each and every allegation contained in paragraphs "1" through "5" as if specifically set forth herein at length.

7. At all times relevant herein, Defendant entered into agreements, service contracts, contracts of affreightment, charter agreements and/or bills of lading, with Plaintiff for, *inter alia*, the carriage, storage, handling, care and/or maintenance of Defendant's cargoes by Plaintiff in consideration of payments by Defendant to Plaintiff for said services.

8. At all times relevant herein, Defendant ratified the terms of the referenced agreements, service contracts, contracts of affreightment, charter agreements and/or bills of lading by accepting delivery of the cargoes in question.

9. Pursuant to the agreements between the parties Plaintiff is entitled to all costs incurred by Plaintiff in attempting to collect fees under the agreements, including reasonable attorneys' fees and interest.

10. Plaintiff duly performed all duties and obligations required to be performed by Plaintiff in connection with Defendant's goods.

11. Defendant wrongfully, willfully, negligently and/or fraudulently breached the terms of the subject agreement(s) by, *inter alia*, failing to pay freight, dead freight, demurrage, detention, port fees, tariffs and other associated costs.

12. As a result of Defendant's breach of the subject agreements, Plaintiff has incurred, and will continue to incur, costs and expenses for which Defendant is liable under the terms of the agreements and at law.

13. Plaintiff has placed Defendant on notice of its claim that Defendant has breached the subject agreements and violated Plaintiff's rights under the law.

14. Despite Plaintiff's repeated demands, Defendant has failed to pay the Plaintiff's damages due and owing under the agreements and at law.

15. By reason of the foregoing, Plaintiff has sustained damages in the amount of \$16,985.00, together with interest, costs, fees, and expenses.

AS AND FOR A SECOND CAUSE OF ACTION

16. Plaintiff repeats and reiterates each and every allegation contained in paragraphs "1" through "15" as if specifically set forth herein at length.

17. Plaintiff has an account stated with the Defendant.

18. By reason of the foregoing, Plaintiff has sustained damages in the amount of \$16,985.00, together with interest, costs, fees, and expenses.

AS AND FOR A THIRD CAUSE OF ACTION

19. Plaintiff repeats and reiterates each and every allegation contained in paragraphs "1" through "18" as if specifically set forth herein at length.

20. Plaintiff is due from Defendant the quantum meruit of Plaintiff's services.

WHEREFORE, Plaintiff prays:

(A). that judgment be entered in favor of Plaintiff for an amount exceeding \$16,985.00, plus interest, fees, including attorneys' fees, costs, and disbursements; and

(B). that Plaintiff be granted such other and further relief as the Court may deem just and proper.

Dated: New York, New York
September 2, 2009

MAHONEY & KEANE, LLP
Attorneys for Plaintiff
MTS LOGISTICS INC.

By:

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